

House File 487 - Introduced

HOUSE FILE _____
BY SWAIM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the recall of city council members and
2 providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2433HH 82
5 sc/cf/24

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1 1 Section 1. NEW SECTION. 66A.1 OFFICERS SUBJECT TO
1 2 RECALL.
1 3 1. A city council member is subject to recall from office
1 4 by the electors of the city. The eligible electors of a city
1 5 may petition for the recall of a city council member by filing
1 6 a petition with the county commissioner of elections demanding
1 7 the recall of the council member.
1 8 2. A council member who is appointed to the city council
1 9 is subject to recall in the same manner as provided for a
1 10 council member who is elected to that office.
1 11 3. A council member shall not be recalled for performing a
1 12 duty or obligation of the office of city council member, which
1 13 duty or obligation is imposed by law, or for failure to
1 14 perform any act that if performed would subject the council
1 15 member to prosecution.
1 16 Sec. 2. NEW SECTION. 66A.2 PETITION FOR RECALL ==
1 17 PERSONS QUALIFIED TO PETITION == PENALTY.
1 18 1. Any eligible elector of a city of this state may sign a
1 19 petition for recall of a council member elected from that
1 20 city. However, if the city is divided into wards, the
1 21 eligible elector signing the petition must be an eligible
1 22 elector of that ward from which the council member was
1 23 elected.
1 24 2. A person signing a name other than that person's own to
1 25 a petition for recall or who knowingly signs the same petition
1 26 for recall more than once or who is not an eligible elector at
1 27 the time of signing a petition for recall is guilty of a
1 28 serious misdemeanor.
1 29 Sec. 3. NEW SECTION. 66A.3 PETITION FOR RECALL ==
1 30 CONTENTS, REQUIREMENTS, LIMITATIONS.
1 31 1. A petition for recall shall contain the following:
1 32 a. The signatures of eligible electors of the city or ward
1 33 affected by the recall equal to at least twenty percent of the
1 34 total votes cast in the last preceding election for all city
1 35 council offices on the ballot in that election, but in no case
2 1 shall a petition for recall contain less than fifty
2 2 signatures. The county commissioner of elections shall
2 3 determine and certify to any interested person the number of
2 4 signatures required on a petition for recall for that office.
2 5 b. The residence address of each person signing the
2 6 petition and the date the petition was signed by that person.
2 7 c. A statement, in two hundred words or less, detailing
2 8 the reason for recall of the council member.
2 9 2. a. A petition for recall shall be eight and one-half
2 10 by eleven inches in size and shall be in substantially the
2 11 following form:
2 12
2 13 WARNING
2 14 A person signing a name other than the person's own name to
2 15 a petition or who knowingly signs the person's name to this
2 16 petition more than once or who is not an eligible elector at
2 17 the time the signature is affixed to this petition is guilty
2 18 of a serious misdemeanor.
2 19 RECALL PETITION
2 20 We, the undersigned eligible electors of (name of city, and
ward number if applicable) respectfully petition that an

2 21 election be held as provided by law on the question of whether
2 22 (council member's name), holding the office of city council
2 23 member, should be recalled for the following reasons:
2 24 (Setting out the statement of the reason for recall in not
2 25 more than two hundred words). By affixing the signature, each
2 26 signer certifies the following: I have personally signed this
2 27 petition; I am an eligible elector of the state of Iowa and
2 28 (appropriate city, and ward number if applicable); and my
2 29 residence address is correctly written after my name to the
2 30 best of my knowledge and belief.

2 31 b. Numbered lines shall follow the heading. Each numbered
2 32 line shall contain spaces for the signature, signer's
2 33 residence address, and the date of the signature.

2 34 c. Each separate page of a petition for recall shall
2 35 contain the warning and recall petition language in paragraph
3 1 "a".

3 2 d. When a petition contains more than one page, the pages
3 3 shall be neatly arranged and securely fastened together before
3 4 filing.

3 5 3. Before a petition for recall may be circulated for
3 6 signatures, a sample petition form, including the statement of
3 7 the reason for recall, must be submitted to the county
3 8 commissioner of elections. Within five days of receipt of the
3 9 sample petition, the commissioner shall review the sample
3 10 petition and determine whether it meets the requirements of
3 11 this section. If the petition meets the requirements of this
3 12 section, the commissioner shall certify the petition and
3 13 return it immediately to the person who submitted the
3 14 petition. If the petition does not meet the requirements of
3 15 this section, the commissioner shall inform the person who
3 16 submitted the sample petition that the petition does not meet
3 17 the requirements imposed by law and the reasons therefor.

3 18 4. a. A petition for recall shall not name more than one
3 19 council member to be recalled.

3 20 b. A person shall not be recalled within the first one
3 21 hundred eighty days after the person takes the oath of office
3 22 nor within one hundred eighty days from the date on which the
3 23 office is to be filled by the registered voters in the regular
3 24 city election.

3 25 c. A petition for recall shall not be filed against a
3 26 council member for whom a recall election has been held within
3 27 a period of two years during a term of office.

3 28 Sec. 4. NEW SECTION. 66A.4 FILING OF PETITION FOR
3 29 RECALL.

3 30 1. A petition for recall shall be filed within ninety days
3 31 of the date the form of the petition is certified pursuant to
3 32 section 66A.3. The petition for recall shall be filed with
3 33 the county commissioner.

3 34 2. When filing a petition for recall, an affidavit in
3 35 substantially the following form shall be attached to the
4 1 petition:

4 2 I, (name of person filing petition), being duly sworn, say
4 3 that I circulated or assisted in circulating the petition to
4 4 which this affidavit is attached, and I believe the signatures
4 5 affixed to the petition are genuine, and are the signatures of
4 6 the persons whose names they purport to be, and that the
4 7 signers were aware of the contents of the petition before
4 8 signing the petition.

4 9 _____
4 10 (Signed)
4 11 Subscribed and sworn to before me by _____, on the ____
4 12 day of _____, 20__

4 13 _____
4 14 (Name)
4 15 _____
4 16 (Official title)

4 17 3. After a petition for recall has been filed, it shall
4 18 not be returned to the person who filed the petition, nor
4 19 shall any signature or other information be added to the
4 20 petition for recall. If a signature on a petition sheet is
4 21 crossed out by the petitioner before the sheet is offered for
4 22 filing, the elimination of the signature does not affect the
4 23 validity of other signatures on the petition sheet.

4 24 Sec. 5. NEW SECTION. 66A.5 VERIFICATION OF PETITION.

4 25 Upon the filing of a petition for recall, the county
4 26 commissioner of elections shall verify that the petition has
4 27 been signed by the required number of eligible electors as
4 28 specified in section 66A.3. If the petition for recall does
4 29 not contain the required number of signatures, the county
4 30 commissioner shall notify the person filing the petition that
4 31 the petition is not valid.

4 32 Sec. 6. NEW SECTION. 66A.6 NOTIFICATION TO OFFICER ==
4 33 STATEMENT OF JUSTIFICATION.

4 34 Upon the filing of a petition for recall, the county
4 35 commissioner of elections shall immediately send written
5 1 notice to the council member named in the petition. The
5 2 notice shall state that a petition for recall of the council
5 3 member has been filed, shall include a copy of the statement
5 4 of the reason for recall as printed on the petition, and shall
5 5 inform the council member that the council member may have
5 6 printed on the special election ballot a statement of
5 7 justification in not more than two hundred words stating why
5 8 the council member should not be recalled. To be printed on
5 9 the ballot, the statement of justification must be submitted
5 10 to the county commissioner within ten days of the date the
5 11 notice is sent to the council member named in the petition for
5 12 recall.

5 13 Sec. 7. NEW SECTION. 66A.7 OBJECTION TO THE PETITION ==
5 14 NOTICE AND HEARING.

5 15 1. Objections to the legal sufficiency of a petition for
5 16 recall may be filed in writing by any person who would have
5 17 the right to vote for a candidate for the office in question.
5 18 The objections shall be filed with the county commissioner of
5 19 elections not more than fourteen days after the petition for
5 20 recall is filed.

5 21 2. When objections have been filed, notice shall be mailed
5 22 within seventy-two hours by certified mail to the person who
5 23 filed the petition. A hearing on the objections shall be held
5 24 in the manner provided for objections to nomination petitions
5 25 or certificates of nomination filed pursuant to chapter 43.

5 26 Sec. 8. NEW SECTION. 66A.8 PRESUMPTION OF VALIDITY.

5 27 A petition for recall filed under this chapter, and being
5 28 apparently in conformity with law, shall be regarded as valid,
5 29 unless objection is made in writing, and the petition shall be
5 30 open to public inspection and preserved by the county
5 31 commissioner of elections for not less than six months after
5 32 the special recall election is held.

5 33 Sec. 9. NEW SECTION. 66A.9 RECALL ELECTION.

5 34 If the council member named in a petition for recall
5 35 submits a resignation in writing, it shall be accepted and
6 1 become effective the day it is offered. The vacancy created
6 2 by the resignation shall be filled as provided by law, except
6 3 that the council member named in the petition for recall shall
6 4 not be appointed to fill the vacancy. If the council member
6 5 named in the petition does not resign within five days after
6 6 the petition for recall is filed, a special election on the
6 7 recall of the council member shall be called. The recall
6 8 election shall be held the first Tuesday following sixty days
6 9 after the date the petition is filed. However, the special
6 10 election shall not be held on the same day as a regularly
6 11 scheduled election. If the first Tuesday following sixty days
6 12 after the date the petition is filed is the same day as a
6 13 regularly scheduled election, the special election shall be
6 14 held the first Tuesday following the regularly scheduled
6 15 election.

6 16 Sec. 10. NEW SECTION. 66A.10 CONDUCT OF RECALL ELECTION.

6 17 1. A special election for recall of a council member shall
6 18 be conducted, and the results canvassed and certified, in the
6 19 same manner that a regularly scheduled election to fill that
6 20 office is conducted.

6 21 2. The ballot submitted at a recall election shall set
6 22 forth the statement contained in the petition for recall
6 23 stating the reason for demanding the recall of the council
6 24 member and the statement of justification submitted by the
6 25 council member, if submitted in a timely manner. The question
6 26 of whether the council member should be recalled shall be
6 27 placed on the ballot in substantially the following form:

6 28 _____. FOR recalling _____ who holds the office
6 29 of _____.

6 30 _____. AGAINST recalling _____ who holds the
6 31 office of _____.

6 32 3. Expenses of a recall election shall be paid in the same
6 33 manner as the expenses of a regularly scheduled election to
6 34 fill that office.

6 35 Sec. 11. NEW SECTION. 66A.11 ELECTION RESULTS == FILLING
7 1 OF VACANCY.

7 2 1. The council member named in a petition for recall shall
7 3 continue in office until the council member resigns or the
7 4 results of the recall election are officially declared.

7 5 2. If a majority of those voting on the question vote to
7 6 remove the council member, the office becomes vacant and the
7 7 vacancy shall be filled as provided by section 372.13.

7 8 However, in no event shall the council member recalled be
7 9 appointed to fill the vacancy.

7 10 EXPLANATION

7 11 This bill allows for the recall from office of a city
7 12 council member by the electors of that city, or ward if
7 13 applicable. The bill provides that a petition for recall of a
7 14 council member may be filed by the eligible electors of the
7 15 city or ward equal in number to at least 20 percent of the
7 16 total votes cast for all city council offices on the ballot in
7 17 the last preceding election, but in no case shall the number
7 18 of signatures be less than 50.

7 19 If the petition is filed in a timely manner, is of legal
7 20 sufficiency, is not objected to in writing, and if the council
7 21 member named in the petition does not resign from office, a
7 22 recall election shall be held on the question of whether the
7 23 council member shall be recalled from office. If the council
7 24 member resigns, or if a majority of the total vote cast at the
7 25 recall election is in favor of the recall of the council
7 26 member, the vacancy in the office shall be filled in a manner
7 27 provided for that office in Code section 372.13.

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